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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|--------------------------------|------------------------|
| 10/775,873 | 02/10/2004 | Alfred F. Bergeron | 07703-356002 | 1158 |
| 26211 | 7590 | 12/05/2007 | | |
| FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022 | | | EXAMINER BEAUCHAINE, MARK J | |
| | | | ART UNIT 3653 | PAPER NUMBER |
| | | | MAIL DATE 12/05/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---------------------------------------|--|--|
| Office Action Summary | Application No. 10/775,873 | Applicant(s) BERGERON ET AL. | |
| | Examiner Mark J. Beauchaine | Art Unit 3653 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 45-56 is/are pending in the application.
- 4a) Of the above claim(s) 45-47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 48-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>9/24/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Patent Number 5,421,443 by Hatamachi et al ("Hatamachi") in view of Patent Number 2,253,270 by Golber ("Golber"). The stacker mechanism disclosed by Hatamachi comprises stacker plate 14 and drive means 62 coupled to said stacker plate.

Hatamachi fails to disclose non-circular drive gears. Golber teaches a drive means comprising non-circular drive gears 31 and 32 for the purpose of varying the speed of mechanical elements driven by said drive means. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the non-circular gears of Golber into the drive means of Hatamachi for the purpose of varying the speed of mechanical elements driven by said drive means.

Claims 49, 53, 54 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hatamachi in view of Patent Number 5,476,353 by Mole ("Mola"). The stacker mechanism disclosed by Hatamachi comprises stacker plate 14, scissor

mechanism 41 comprising a first scissor arm pivotally connected at a first end about a fixed point on the stacker plate, a second scissor arm slidably connected at a first end to the stacker plate and pivotally connected to the first scissor arm about a scissor pivot point located approximately at the center of the length of the first scissor arm, wherein the second scissor arm is pivotally connected at a second end at a fixed point on a frame, and link arm 43 that is slidably connected to the frame and is connected to said first scissor arm in substantially the same plane to drive the stacker plate (see Figure 11).

Hatamachi fails to disclose said link arm being connected at a pivot point of said first scissor arm located between the scissor pivot point and a second end of the first scissor arm that is slidably connected to the frame. Mola teaches a scissor arm/link arm configuration comprising link arm 28 being connected to first scissor arm 22 at a pivot point located between a scissor pivot point with a second scissor arm and an end of the first scissor arm that is connected to frame 20 (see Figure 10) for the purpose of linearly moving plate 19a in an up and down manner. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the scissor arm/link arm configuration of Mola into the scissor mechanism of Hatamachi for the purpose of linearly moving said stacker plate in an up and down manner.

Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hatamachi in view of Mola as applied to claim 49 above, and further in view of Golber. Hatamachi/Mola fails to disclose non-circular gears. Golber teaches a drive means

comprising non-circular drive gears 31 and 32 for the purpose of varying the speed of mechanical elements driven by said drive means. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the non-circular gears of Golber into the drive means of Hatamachi/Mola for the purpose of varying the speed of mechanical elements driven by said drive means.

Claims 51, 52 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hatamachi in view of Mola in view of Golber. The stacker mechanism disclosed by Hatamachi comprises stacker plate 14, scissor mechanism 41 comprising a first scissor arm pivotally connected at a first end about a fixed point on the stacker plate, a second scissor arm slidably connected at a first end to the stacker plate and pivotally connected to the first scissor arm about a scissor pivot point located approximately at the center of the length of the first scissor arm, wherein the second scissor arm is pivotally connected at a second end at a fixed point on a frame, and link arm 43 that is slidably connected to the frame and is connected to said first scissor arm in substantially the same plane to drive the stacker plate (see Figure 11).

Hatamachi fails to disclose said link arm being connected at a pivot point of said first scissor arm located between the scissor pivot point and a second end of the first scissor arm that is slidably connected to the frame. Mola teaches a scissor arm/link arm configuration comprising link arm 28 being connected to first scissor arm 22 at a pivot point located between a scissor pivot point with a second scissor arm and an end of the first scissor arm that is connected to frame 20 (see Figure 10) for the purpose of linearly

moving plate 19a in an up and down manner. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the scissor arm/link arm configuration of Mola into the scissor mechanism of Hatamachi for the purpose of linearly moving said stacker plate in an up and down manner.

Hatamachi fails to disclose non-circular drive gears. Golber teaches a drive means comprising non-circular drive gears 31 and 32 for the purpose of varying the speed of mechanical elements driven by said drive means. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the non-circular gears of Golber into the drive means of Hatamachi for the purpose of varying the speed of mechanical elements driven by said drive means.

Response to Arguments

Applicant's arguments with respect to claims 48-56 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark J. Beauchaine whose telephone number is (571)272-6934. The examiner can normally be reached on 8:00AM through 5:00PM Mondays through Thursdays.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick H. Mackey can be reached on (571)272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mjb



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